

CONFIDENTIAL

0-7629

Executive

17 November 1949

Legal Staff

Inoculation of Dependents

OGC Has Reviewed

1. The question of inoculation of dependents has again arisen, and this office has reviewed the law and appropriate regulations and discussed the matter with the State Department. In our previous discussions with you, we indicated that we did not believe that there was any clear authority for inoculation of dependents under any of the existing regulations. A recent change in the Foreign Service Regulations has now been suggested as the basis on which the charge may be authorized. Section 103.645, entitled "Miscellaneous Expenses", was made effective September 12, 1949, and provides, in part:

"The Miscellaneous Expenses contemplated by paragraph 75 of the Standardized Government Travel Regulations for travel beyond the limits of the United States, such as * * * charges for inoculation when they cannot be obtained through a Federal Dispensary, are authorized, unless otherwise specifically stated in the Travel Authorization."

(Paragraph 75 of the Standardized Government Travel Regulations falls under the generic heading of "Miscellaneous Expenses," and states in part: "Definition -- * * * when required for travel beyond the limits of the United States, * * * charges for inoculation will be allowed when authorized or approved by the Administrative Official.")

2. In an opinion dated August 7, 1946, (26 Comp. Gen. 157), the Comptroller General states in syllabus: "While the cost for inoculations of an employee when required for travel beyond the limits of the United States constitutes a reimbursable travel expense under paragraph 75 of the Standardized Government Travel Regulations, the cost of inoculations for members of an employee's immediate family incident to a permanent change of station beyond the limits of the United States may not be considered as an expense of 'transportation' for which he would be entitled to reimbursement under section 201 (a) of the Independent Offices Appropriation Act, 1946, and Executive Order No. 9587, issued thereunder." In interpreting Paragraph 75 of the Standardized Government Travel Regulations, the Comptroller General explains that "it limits the payment of expenses incurred by their immediate families in connection with such transfer to 'expenses of transportation', and that a limitation is recognized in that only travel regulations 'which relate to transportation' are applicable. He goes on to state that: 'Clearly, under the laws and regulations, necessary inoculation charges constitute a travel expense for which an employee is entitled to be reimbursed,'

see CG Dec. (supp.) B-9191
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provided the charges for inoculation be authorized or approved by the proper official, as required by paragraph 75 of the travel regulations; however, such charges may not be considered as coming within the purview of the term "expenses of transportation" as used in section 201 (a) of the appropriation act or of the term "transportation" as used in section 2 of the Executive Order, supra. The term "transportation" ordinarily connotes the allowance of common carrier fares only, and while paragraph 3 of the travel regulations broadens the meaning so as to include certain expenses incident thereto, there is no basis for construing it so as to include inoculation charges, even though they may be required -- as a necessary travel expense -- before an employee or his family are permitted to undertake the authorized travel." In view of what may be considered a limitation to "transportation expenses", it has been suggested that a broader authority exists by virtue of the Foreign Service Act (P.L. 724), in which the Secretary (of State) is authorized to pay "the travel expenses" of the members of the family. The section of the Act authorizing payment of the cost of inoculations, however, (see section 943) specifies only "officers or employees".

3. We have explored the possibility of justifying dependents' inoculation under a Public Health directive, but found that it was applicable only to a Public Health "station", as which our Medical Division does not qualify.

4. The new Foreign Service Regulation cited above does not specifically provide for authorization of inoculation for dependents. By the same token, it does not clearly prohibit it. To the extent that the Foreign Service Regulations are available to Agency personnel, this section may possibly be accepted as justifiable authority. We have some difficulty in concluding that there is explicit authority for the inoculation of dependents, and there is no express provision in P.L. 110.

5. From the above, it appears that we have three courses of alternative action:

(a) We can accept the new section of the Foreign Service Regulations as justification for authorizing inoculation of dependents, and hazard a later challenge and possible disallowance by the General Accounting Office. In view of the burdensome accounting which would be involved, any disallowance by GAO would probably apply only to future payments; those already made would most likely be accepted as an erroneous administrative decision; or

(b) We can submit the question to the General Accounting Office for a declaratory decision. This action might prove rather embarrassing to the State Department, and would certainly direct attention to a question that might otherwise be undiscovered, or

(c) We can simply authorize the inoculation of dependents and have it authorized under existing law or regulations. In this event, we should probably apply for remedial legislative action.

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6. If it is decided to accept the new Foreign Service Regulation as a basis of reimbursement for the cost of dependents' inoculations by private physicians outside the Washington area, the last two lines of paragraph 3 of Administrative Instruction 70-1 should be revised accordingly. The security aspect of dependents' inoculation at Headquarters is, of course, sufficient justification in any event.

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cc: Subject
Chrono
Legal Decisions ✓

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